

SERVED: April 13, 1993

NTSB Order No. EA-3862

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 13th day of April, 1993

JOSEPH DEL BALZO,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
v.	)	Dockets SE-12961RM
	)	12962RM
RODOLFO CHIA, JOSEPH DIACO,	)	12963RM
PATRICIO MANRIQUEZ, and PAUL	)	12964RM
SEGURA,	)	
Respondents.	)	

**OPINION AND ORDER**

The Administrator has appealed from the oral initial decision Administrative Law Judge Jimmy N. Coffman issued on March 24, 1993, following our remand of the matter in Order EA-3848 (served March 19, 1993).<sup>1</sup> The law judge on remand concluded that the Administrator had not met his burden of proving that a reasonable basis existed for questioning respondents' competence

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<sup>1</sup>In Order EA-3848 we ruled that the law judge erred in granting respondents' motion to dismiss. An excerpt from the hearing transcript containing the initial decision on remand is attached.

as airframe and powerplant mechanics. He therefore reversed the Administrator's emergency orders suspending, pending successful reexamination, their mechanic certificates. Our review of the record persuades us that the law judge's decision should be sustained.

The Administrator's orders allege that respondents, each on a different date, had released as airworthy civil aircraft EL-AJQ, a Douglas DC-8 operated by Aerovias Colombianas Ltda (ARCA), that, according to the Administrator, was not in fact airworthy due to "long term structural corrosion problems." The orders essentially asserted that respondents' failure to properly inspect the aircraft before executing, in accordance with ARCA's Terminating Service Checklist, airworthiness releases justified the demand for a reexamination. For the reasons discussed below, we cannot agree that respondents' sign offs in the circumstances of this case presented a reasonable ground for doubting their competence as mechanics.

While the evidence as to the existence of structural corrosion on the aircraft is conflicting, there appears to be no evidence to contradict the respondents' testimony that in their supervisory roles at ARCA they did not, as a general matter, personally perform maintenance on the carrier's various aircraft or inspect the maintenance performed by the ARCA mechanics who did.<sup>2</sup> Instead, they appear to have been responsible, pursuant to

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<sup>2</sup>Although respondent Chia, in connection with his review of work done in connection with four discrepancies listed in the aircraft logbook unrelated to corrosion, did in fact see the

company policy and procedure, only for ascertaining whether various maintenance items assigned by and taken care of by others had been accomplished. In other words, respondents, based solely on the representations of other certificated mechanics, would sign the airworthiness release for a specific aircraft after receiving advice that all required maintenance work had been completed.<sup>3</sup>

On appeal, the Administrator, without directly challenging the propriety of an airline's practice of allowing maintenance supervisors to rely on the inspections performed by other mechanics, appears to argue that if respondents released the aircraft as airworthy when it was not, an issue as to their competence as mechanics has been identified. We disagree with the Administrator's position, for the question before us is not whether the respondents are accountable for what may have been deficient maintenance by those actually servicing the aircraft. Rather, we think the suspensions pending reexamination ordered by the Administrator require that we ask whether some shortcoming in respondents' abilities as mechanics has been demonstrated by their reliance, which has not been shown to contravene the requirements of any Federal Aviation Regulation, on the

(..continued)

aircraft during the midnight shift on September 10, 1992, the day before he signed an airworthiness release for it, he noticed only surface corrosion. He did not perform a walk around inspection.

<sup>3</sup>One of the Administrator's own inspector witnesses in effect conceded, albeit grudgingly, that an airline could have a policy whereby individuals in positions such as those held by respondents could release aircraft without personally inspecting them. See Transcript of February 23 hearing, at page 67.

representations of other mechanics, also licensed by the Administrator, as to the proper completion of maintenance items.

The answer to that question is clearly no, for even if we questioned the wisdom of a policy that, as here, permits one mechanic to rely on the work and word of another, we would still be unpersuaded that such reliance suggests any deficit in mechanic skills or knowledge. In sum, we cannot find on this record that a reasonable basis was shown for requiring the respondents to submit to a reexamination of their competence as mechanics. Since respondents' sign offs were not predicated on their own airworthiness assessments, no remedial purpose exists for testing their ability to make such judgments.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's appeal is denied, and
2. The initial decision is affirmed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order. Member HART did not concur. COUGHLIN submitted the following concurring statement.

I will concur, with reluctance, with Notation 6017A. While I support the Administrator's objective (which I perceive to be effecting some improvement in the airworthiness of this carrier's aircraft), I am persuaded that the Administrator has not pursued his case effectively. Had the Administrator sought suspension of respondents' certificates and then argued his case to prove that the respondents knew or should have known that the proper work was not being accomplished, the outcome in my mind would have been quite different. However, suspension pending reexamination for sign offs on work they were not required to inspect either by the carrier or the FAA, does not seem to be a reasonable basis for questioning respondents' technical competence as airframe and powerplant mechanics.

The troubling aspect of upholding the law judge, obviously, is leaving the impression that employees in supervisory roles are not accountable for sign offs that they make. Nevertheless, the FAA's own witness conceded that an airline could have just such a policy and not run afoul of the requirements of any Federal Aviation Regulation.

That being the case, I find that I must support the law judge on the technical and legal aspects, not on my inherent belief that supervisory approval for work allegedly accomplished carries with it some responsibility to verify actual accomplishment of the work, and therefore, entails some accountability. In the absence of these, the supervisory function becomes little more than a paperwork exercise unrelated to airworthiness or aviation safety. Apparently, and regrettably, the latter is what we're faced with here.

Nevertheless, I find no ground upon which to question the technical competence of the 'respondents.

*Sam H. Coughlin*  
4-12-93